

DEPARTMENT OF INDUSTRIAL RELATIONS

OFFICE OF THE DIRECTOR - LEGAL UNIT
455 GOLDEN GATE AVENUE
San Francisco, CA 94102



ADDRESS REPLY TO:
Office of the Director - Legal Unit
P.O. Box 420603
San Francisco, CA 94142
(415) 703-4240
FAX No.: (415) 703-4277

September 23, 1999

Albert W. Cianci
Park Maintenance Contract Administrator
City of Riverside
3685 Main Street, Suite 300
Riverside, CA 92501

Re: Public Works Case No.: 99-018
City of Riverside Swimming Pool Maintenance

Dear Mr. Cianci:

This letter constitutes the determination of the Director of Industrial Relations regarding coverage of the above-described project under the public works laws and is made pursuant to Title 8, California Code of Regulations section 16001(a). Based upon my review of the documents submitted and an analysis of the relevant facts and the applicable law, I have determined that this project is subject to the requirement to pay prevailing wages pursuant to Labor Code section 1720 et seq.¹

Section 1771 specifies that the prevailing wage requirement applies to contracts let for maintenance work. Maintenance is described under Title 8, California Code of Regulations section 16000 as:

- (1) Routine, recurring and usual work for the preservation, protection and keeping of any publicly owned or publicly operated facility (plant, building, structure, ground facility, utility system or any real property) for its intended purposes in a safe and continually usable condition for which it has been designed, improved, constructed, altered or repaired.
- (2) Carpentry, electrical, plumbing, glazing, touchup painting, and other craft work designed to preserve the publicly owned or publicly operated

¹ All further statutory references are to the Labor Code unless otherwise indicated.

facility in a safe, efficient and continuously usable condition for which it was intended, including repairs, cleaning and other operations on machinery and other equipment permanently attached to the building or realty as fixtures.

EXCEPTION: 1: Janitorial or custodial services of a routine, recurring or usual nature is excluded.

EXCEPTION: 2: Protection of the sort provided by guards, watchmen, or other security forces is excluded.

(3) Landscape maintenance. See Public Contract Code Section 21001.

EXCEPTION: Landscape maintenance work by "sheltered workshops" is excluded.

The scope of the work contemplated by the contract encompasses the following tasks: fill pools with clean domestic water, perform domestic and pool water chemistry testing and analysis, supply water treatment chemicals, operate and maintain water chemistry treatment equipment, clean surrounding decking and equipment room, and replace/repair equipment as necessary. These tasks are routine, recurring and usual work for the keeping of a publicly owned and operated facility for its intended purpose in a safe and continually usable condition. As such, this work falls within the first definition of maintenance cited above.

The issue is whether swimming pool maintenance falls within the janitorial/custodial services exception to maintenance. Webster's New Collegiate Dictionary defines janitor as "one who keeps the premises of an apartment, office or other building clean, tends the heating system, and makes minor repairs." Custodian is defined as "one entrusted with guarding and keeping property." Precedential Public Works Coverage Determination, No. 96-004, Traffic Signal Maintenance, June 3, 1996, contains the following definition of janitorial/custodial services in footnote two, "routine tasks of clearing and keeping buildings or facilities free of refuse."

Swimming pool maintenance work is not janitorial in nature, as it does not involve the cleaning and keeping of buildings and facilities free of refuse of office buildings. As such, this work does not fall within the janitorial/custodial services

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exception to maintenance, as narrowly defined. Accordingly, payment of the prevailing wage is required.

In conclusion, under the specific facts and circumstances involved in this case, this work is a public works project within the meaning of section 1771. I hope this Determination satisfactorily answers your inquiry.

Sincerely,


Stephen J. Smith, Director

cc: Daniel M. Curtin, Chief Deputy Director
and Acting Chief DLSR
Marcy Saunders, Labor Commissioner
Henry P. Nunn III, Chief, DAS
Vanessa L. Holton, Asst. Chief Counsel